



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

August 25, 2023

VIA ECF

Honorable Jennifer H. Rearden
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Sisters of Life v. McDonald*, No. 22-cv-7529 (JHR)

Your Honor,

I am counsel for defendant James V. McDonald, Commissioner of the New York State Department of Health (“DOH”) in the above-referenced action. I write on behalf of all parties with a status update pursuant to this Court’s order, dated July 12, 2023 (ECF Doc. No. 36), and to request a further two-week extension of the stay of this litigation through September 11, 2023.

This case concerns a facial and as-applied challenge brought by plaintiff Sisters of Life, a Catholic community of religious sisters, to Assembly Bill A5499 (“A5499”), a state law which directs DOH to conduct a study on the impact of limited-service pregnancy centers on the ability of women to access the full array of reproductive and sexual healthcare information and services covered by the State’s Medicaid program. Among other things, A5499 authorizes DOH to request information from limited-service pregnancy centers as part of the study directed by the State Legislature.

Plaintiff commenced this action in September 2022 by filing a complaint and a motion for a preliminary injunction. Shortly thereafter, the parties conferred and agreed to temporarily stay the litigation while DOH worked to implement the statute, while also protecting the interests asserted by plaintiff.

Since then, the parties have jointly requested three additional extensions of the stay of this litigation (ECF Doc. Nos. 29, 33, 35) so that DOH could make progress on the implementation of the statute. In the July 2023 status report, DOH stated that it was “in the process of finalizing its implementation of the study,” and agreed to provide plaintiff with a copy of the final survey that it would be disseminating prior to the expiration of the stay. (ECF Doc. No. 36 at 1-2.)

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On August 18, 2023, DOH provided plaintiff a copy of the final survey as agreed. The parties are conferring on the next steps in the litigation, and require additional time to continue their discussions. As before, if further litigation is required, the parties agree to confer and propose an agreed-upon briefing schedule to the Court for the preliminary injunction motion and other matters as required by the Federal Rules of Civil Procedure and Your Honor's individual practices.

Consistent with the parties' prior agreement, DOH agrees not to issue the survey to plaintiff during the period of the continued stay, and at the expiration of the stay period, not to issue the survey to plaintiff for the additional period of time that may be required for plaintiff to re-file a preliminary injunction motion, brief that motion, and for the Court to issue a decision on that motion.

Additionally, DOH agrees that it will not disseminate the survey to any other entities prior to the expiration of the proposed two-week extension of the stay.

The parties jointly request that the Court grant a further two-week extension of the stay of this litigation through September 11, 2023. Thank you for your time and consideration in this matter.

Respectfully submitted,

/s/

Linda Fang

Special Litigation Counsel

(212) 416-8580

Linda.Fang@ag.ny.gov